

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 )                           8:05CR170  
                                )  
vs.                         )                           ORDER  
                                )  
HOMERO BARRERAS GASTELUM, )  
                                )  
Defendant.                 )

This matter is before the court on the motion to continue trial by defendant Homero Barreras Gastelum (Gastelum) (Filing No. 15) and Gastelum's motion to extend time to file pretrial motions (Filing No. 16). Gastelum has submitted a statement whereby he consents to the motions and acknowledges he understands the time required for the motions will be excluded from the computations under the Speedy Trial Act.

The motion to continue trial will be granted. However, the motion to extend time to file pretrial motions will be denied. The time for filing pretrial motions as set in the progression order has passed and Gastelum has not made a showing of why such a deadline should be extended or what pretrial motions must be considered for a fair trial.

**IT IS ORDERED:**

1.     Gastelum's motion to extend the pretrial motion deadline (Filing No. 16) is denied.
2.     Gastelum's motion to continue trial (Filing No. 15) is granted.
3.     Trial of this matter is re-scheduled for **August 1, 2005**, before Chief Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendants in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **May 27, 2005 and August 1, 2005**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that the defendant's counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 27th day of May, 2005.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge